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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,776	12/21/2001	James A. Hutchison	010555	9013

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QUALCOMM INCORPORATED  
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EXAMINER

PEREZ, ANGELICA

ART UNIT PAPER NUMBER

2618

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/034,776	HUTCHISON, JAMES A.	
	Examiner	Art Unit	
	Angelica M. Perez	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/2006 has been entered.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 34 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a asserted utility or a well established utility. "instructions" must be "computer executable instructions".

4. Claim 34 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1- 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk (Lynk, Charles N.; EP Application No.: 0,321,672 A2) in view of Stevens (Stevens, Robert David; GB Pub. No.: 2,336,975 A) and further in view of (MPEP 2144.03).

Regarding claims 1, 12, 13, 20, 26, 27, 33, 34-35 and 37, Lynk teaches of a method, device, wireless transmitter, processor and controller (figures 2 and 3; items 21, 47 and 35, respectively; abstract, lines 1-2) comprising: transmitting and receiving a request for access to a broadcast link in a point-to-multipoint communication system (column 5, line 35-38, column 2, lines 47-54 and figure 1; abstract, lines 1-8; e.g., "dispatch service" corresponds to a point-to-multipoint communication system). Lynk further teaches of receiving audio from a user of the wireless communication device, (where the Examiner has given a broad interpretation of the claim; therefore, the audio can be received anywhere in the system/network (where inherently, BS do receive audio from mobile stations, in addition, the device can be receiving audio from the user).

Although in Lynk's method the subscriber begins to speak immediately after an access to a channel is requested, it does not teach of transmitting audio with the access request and of a computer-readable medium carrying instructions; and direct

transmitting of audio broadcast from the wireless communication device before receiving an acknowledgement that the access request is granted or denied.

In related art concerning a mobile radio system, Stevens teaches of transmitting audio with the access request, where the audio includes speech (columns 3 and 4 lines 25-35 and 5-10 where even if resources are not available the access request and voice message are sent by a user of the group); and a computer-readable medium carrying instructions (pages 11 and 12, lines 34-37 and 1-14); from the wireless communication device before receiving an acknowledgement that the access request is granted or denied (page 4, lines 5-10; where the presence of speech indicates an access request), and direct transmission of audio broadcast link (pages 3, 4, 5 and 6; lines 25-35, 5-10, 37 and 1-12, respectively; where the access request and message are sent almost simultaneously; e.g., in push-to talk systems, the user presses the button and starts talking immediately after and the BS broadcasts information directly to each of the mobile stations when access is granted).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's method where the subscriber begins to speak immediately and Steven's access in order to allow a larger number of units to be served, as taught by Steven

Lynk and Stevens do not teach of terminating the audio transmission in the event the access request is denied.

However, Examiner takes "Official Notice" of Lynk and Steven's admission where is well known in the art of terminating the audio transmission in the event the access request is denied (pages 3 and 4, lines 36-37 and 1-3, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk and Steven's method of sending an access request and voice message with the prior art where a call is terminated if resources are not available, in order to save storage capacity in the system.

Regarding claims 2, 14 and 21, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively.

Stevens further teaches where transmitting audio includes transmitting the audio immediately following transmission of the access request (pages 3, 4, 5 and 6; lines 25-35, 5-10, 37 and 1-12, respectively; where the access request and message are sent almost simultaneously; e.g., in push-to talk systems, the user presses the button and starts talking immediately after).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further transmitting the audio immediately following transmission of the access request in order to decrement delay time.

Regarding claims 3, 15 and 22, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively. Lynk also teaches where transmitting

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audio includes transmitting the audio before receiving an acknowledgement that the access request is granted (page 5, columns 41-44).

Regarding claims 4, 16 and 23, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively. Lynk further teaches where transmitting audio includes transmitting the audio without receiving an acknowledgement that the access request is granted (column 7, lines 5-8; where the audio is transmitted before an acknowledgement is received).

Regarding claim 6, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches comprising receiving an acknowledgement that the access request is granted during transmission of the audio (column 6, lines 44-54).

Regarding claim 7, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches of receiving the denial of the access request from an arbitration controller (column 7, lines 49-53).

Regarding claims 8 and 25, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 20.

Stevens further teaches transmitting the audio to the broadcast link via wireless network equipment (figure 1, where radio communication systems transmit data wirelessly).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further teaching of

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transmitting the audio wirelessly in order to comply with a preferable communication form, as taught by Stevens.

Regarding claims 9 and 18, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 12.

Stevens prior art admission according to MPEP further teaches of receiving the denial of the access request from a wireless communication device in the system via a wireless base station (pages 3 and 4, lines 36-37 and 1-3, respectively; where the BS sends a wireless radio message to the MS).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further receiving the denial of the access request from a wireless communication device in the system via a wireless base station in order to disconnect those units that are not available, as taught by the admitted prior art I Steven.

Regarding claims 10 and 19, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 12. Lynk further teaches of generating the denial of the access request within a wireless communication device that presently has access to the broadcast link (column 7, lines 49-52).

Regarding claims 11 and 31, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 26. Lynk further teaches of transmitting the access request in response to actuation of a push-to-talk input medium associated with a wireless communication device (column 5, lines 20-24).



Regarding claim 28, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 26.

Stevens further teaches where the processor directs transmission of an indication that the access request is granted or denied (page 12, lines 28-31; where TETRA radio systems comprise both processor and controllers to perform allocation of channels; thus, access and denial of resources).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further access and denial in order to maintain control of the system, as taught by Steven.

Regarding claim 29, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 26. Link further teaches where the transmitter transmits an indication that the access request is granted or denied (column 8, lines 10-17).

Regarding claim 32, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 26. Stevens further teaches where the processor resides within a network server in a wide area network associated with network equipment in the point-to-multipoint communication system (where figure 1 represents a WAN).

Regarding claims 5, 17, 24, 30 and 36, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively.

Stevens further teaches where at least a portion of the audio transmission serve as the access request (page 4, lines 5-10; where the presence of speech indicates an access request).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further access request feature in order to avoid having to wait until an access to the channel is granted, as taught by Steven.

***Response to Argument***

7. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 571-272-7885. The examiner can normally be reached on 6:00 a.m. - 2:30 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information for unpublished applications is available through the Private PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Information regarding Patent Application Information Retrieval (PAIR) system can be found at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

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*Lana L.*  
12-11-06

LANA LE  
PRIMARY EXAMINER

*Angelica Perez*  
Angelica Perez  
Examiner

Art Unit 2618

December 8, 2006